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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GUADELUPE JIMENEZ,

Plaintiff,

-against-

COFACI FOODS INC. (dba BORIQUEN
SUPERMARKET) and LILLIAN CASTILLO,

Defendants.

21-CV-8620 (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court has received and reviewed the parties' joint letter-motion dated September 25, 2024 (Jt. Ltr.) (Dkt. 98), seeking approval of their Settlement and Release Agreement (Sett. Ag.) (Dkt. 98-1) pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d. Cir. 2015). The Court notes that the proposed settlement payment is \$28,000, of which \$10,240.32 (or 36.57%) is to be paid to plaintiff's counsel. Sett. Ag. ¶¶ 1, 3. The parties state that this sum "reflects the actual litigation expenses incurred." Jt. Ltr. at 4. However, plaintiff's Contingency Agreement contemplates an attorneys' fee award "equal [to] 33.33% of any and all sums recovered" (Dkt. 98-4 at 1), and neither the Settlement Agreement nor the Joint Letter addresses the \$906.99 (3.24%) discrepancy in the proposed fee award.

If the surplus corresponds to "actual litigation expenses incurred," the Court requires documentation of those expenses before the award can be approved. *See* Order dated July 25, 2024 (Dkt. 89) at 2 ("Any proposed award of fees and costs must be . . . supported by copies of . . . time and expense records, properly authenticated") (emphasis added); *Fisher v. SD Prot. Inc.*, 948 F.3d 593, 600 (2d. Cir. 2020) ("The fee applicant must submit adequate documentation supporting the requested attorneys' fees and costs."); *cf. Jerstad v. New York Vinters LLC*, 2019 WL 6769431 at *6 (S.D.N.Y. April 27, 2020) (taking judicial notice of the filing fee, but denying any additional costs for lack of adequate documentation).

Consequently, no later than **October 17, 2024**, plaintiff's counsel must submit adequate documentation supporting the expenses underlying the proposed award to counsel (other than the filing fee). Alternatively, the parties may modify the settlement agreement to keep the award within the range contemplated by the Contingency Agreement.

Dated: New York, New York

October 10, 2024

SO ORDERED.



BARBARA MOSES

United States Magistrate Judge